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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4829

11 **CENTURY DISCOUNT PHARMACY,**
12 **INC., FARHAD D. SHARIM, JOSEPH**
13 **AMIN, Owners**
14 **18254 Sherman Way**
Reseda, CA 91335

A C C U S A T I O N

15 **Permit No. PHY 39871,**

16 **FARHAD D. SHARIM**
17 **P.O. Box 260771**
Encino, CA 91426

18 **Pharmacist License No. RPH 46183,**

19 **and**

20 **JONG AM KIM**
21 **P.O. Box 7282**
Mission Hills, CA 91346

22 **Pharmacist License No. RPH 45267**

23 Respondents:

24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity
27 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

1 10. Section 4105 of the Code states, in pertinent part:

2 "(a) All records or other documentation of the acquisition and disposition of dangerous
3 drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed
4 premises in a readily retrievable form.

5 "(b) The licensee may remove the original records or documentation from the licensed
6 premises on a temporary basis for license-related purposes. However, a duplicate set of those
7 records or other documentation shall be retained on the licensed premises.

8 "(c) The records required by this section shall be retained on the licensed premises for a
9 period of three years from the date of making."

10 11. Section 4301 of the Code states, in pertinent part:

11 "The board shall take action against any holder of a license who is guilty of unprofessional
12 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
13 Unprofessional conduct shall include, but is not limited to, any of the following:

14

15 "(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a)
16 of Section 11153 of the Health and Safety Code.

17

18 "(j) The violation of any of the statutes of this state, or any other state, or of the United
19 States regulating controlled substances and dangerous drugs.

20

21 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
22 violation of or conspiring to violate any provision or term of this chapter or of the applicable
23 federal and state laws and regulations governing pharmacy, including regulations established by the
24 board or by any other state or federal regulatory agency."

25 12. Health and Safety Code section 11153, subdivision (a) states:

26 "(a) A prescription for a controlled substance shall only be issued for a legitimate medical
27 purpose by an individual practitioner acting in the usual course of his or her professional practice.
28 The responsibility for the proper prescribing and dispensing of controlled substances is upon the

1 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
2 prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an
3 order purporting to be a prescription which is issued not in the usual course of professional
4 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of
5 controlled substances, which is issued not in the course of professional treatment or as part of an
6 authorized narcotic treatment program, for the purpose of providing the user with controlled
7 substances, sufficient to keep him or her comfortable by maintaining customary use."

8 REGULATORY PROVISIONS

9 13. California Code of Regulations, title 16, section 1714, subdivision (d) states:

10 "(d) Each pharmacist while on duty shall be responsible for the security of the prescription
11 department, including provisions for effective control against theft or diversion of dangerous drugs
12 and devices, and records for such drugs and devices. Possession of a key to the pharmacy where
13 dangerous drugs and controlled substances are stored shall be restricted to a pharmacist."

14 14. California Code of Regulations, title 16, section 1716 states:

15 "Pharmacists shall not deviate from the requirements of a prescription except upon the prior
16 consent of the prescriber or to select the drug product in accordance with Section 4073 of the
17 Business and Professions Code.

18 "Nothing in this regulation is intended to prohibit a pharmacist from exercising commonly-
19 accepted pharmaceutical practice in the compounding or dispensing of a prescription."

20 15. California Code of Regulations, title 16, section 1718 states:

21 "'Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions
22 Code shall be considered to include complete accountability for all dangerous drugs handled by
23 every licensee enumerated in Sections 4081 and 4332.

24 "The controlled substances inventories required by Title 21, CFR, Section 1304 shall be
25 available for inspection upon request for at least 3 years after the date of the inventory."

26 16. California Code of Regulations, title 16, section 1761 states:

27 "(a) No pharmacist shall compound or dispense any prescription which contains any
28 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any

1 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
2 validate the prescription.

3 "(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
4 a controlled substance prescription where the pharmacist knows or has objective reason to know
5 that said prescription was not issued for a legitimate medical purpose."

6 COST RECOVERY

7 17. Section 125.3 of the Code states, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 CONTROLLED SUBSTANCES

12 18. Alprazolam, the generic name for Xanax, is a Schedule IV controlled substance
13 pursuant to Health and Safety Code section 11057, subdivision (d)(1) and is a dangerous drug
14 pursuant to Code section 4022.

15 19. Hydrocodone/acetaminophen is a Schedule III controlled substance pursuant to Health
16 and Safety Code section 11056, subdivision (e)(4) and is a dangerous drug pursuant to Code
17 section 4022

18 20. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
19 section 11055, subdivision (b)(1)(M) and is a dangerous drug pursuant to Code section 4022

20 BACKGROUND

21 21. In 2013, the Board received consumer complaints from both Joseph Amin and
22 Respondent Sharim, co-owners of Respondent Century Discount Pharmacy, alleging poor
23 pharmacy practice with respect to controlled substances. Due to the potential for missing
24 controlled substances and records, the Board initiated on-site inspections of Respondent Century
25 Discount Pharmacy on January 30 and 31, 2013.

26 22. During the course of the inspections, drug usage reports were requested from the
27 pharmacy that were reviewed along with the pharmacy's drug inventory, DEA inventories, patient
28 prescription profiles, and acquisition records, among other documents.

1 23. Examination of prescription records for controlled substances raised many red flags
2 including a repeating pattern of prescriptions written by Drs. Chumley and Rothman and Nurse
3 Practitioner (NP) Park. Each prescription had nearly identical handwriting with similar spacing.
4 In addition, most medical offices/clinics and patients were listed in either Compton or Los Angeles,
5 CA, yet Respondent Century Discount Pharmacy, the pharmacy issuing the prescriptions, was
6 located in Reseda, CA. More often than not, the patients traveled approximately 73 miles to fill
7 their prescriptions. Additionally, further examination of the prescriptions revealed that the
8 majority of patient names for both controlled and non-controlled prescription records were of
9 Middle Eastern decent.¹ Yet the vast majority of prescriptions issued by Drs. Chumley, Rothman,
10 and NP Park were for patients of non-Middle Eastern decent.

11 24. Also during the inspection, a review of computer records revealed the existence of
12 seven medications with altered names that did not match National Drug Code numbers for any
13 known drugs. The names included: (1) NNNCODONE HCL 30 MG TAB; (2) NNNCODONE
14 HCL TAB; (3) NNNCODONE HCL" MG TAB; (4) NNNRAzolam 2 MG TAB; (5)
15 NNNROCOD/APAP MG TAB; (6) NNNROCODONE/APAP MG TAB; and (7) NNYCODON'
16 HCL 30 MG TAB.

17 25. A Board inspector also requested computer records from the pharmacy's software
18 vendor for all medications filled and dispensed from 8-1-2011 to 1-31-2013. Additionally, the
19 Board inspector requested a Controlled Substance Utilization Review and Evaluation System
20 ("Cures") report for that date range. Examination of these records revealed that Respondent had
21 filled a total of 44,090 prescriptions. Of these prescriptions, 7,808 (or 17.71%) of the
22 prescriptions were for controlled substances. Of the controlled substance prescriptions, the most
23 dispensed prescriptions were alprazolam 2 mg, hydrocodone acetaminophen 10/32 5mg,
24 oxycodone 30 mg, hydrocodone acetaminophen 5/500 mg, and zolpidem 10 mg. With the
25 exception of zolpidem 10 mg., these were the same medications with altered names in Respondent
26 Century Discount Pharmacy's computer records.

27 ¹ Pharmacist Nouri Nourani advised inspectors that Respondent Century Discount Pharmacy
28 primarily services a Persian community.

26. On or around February 6, 2013, a meeting was arranged with Respondent Sharim. When asked what criteria he uses for evaluating a controlled substance prescription, he failed to offer specific criteria. However, he indicated that he would notice people in pain while they were in the pharmacy and he would also call the prescribers (often on their cell phones) to verify the prescriptions. Respondent Sharim also noted that he had a limit of six prescriptions for oxycodone per day. After filling six prescriptions, he would stop. Respondent Sharim did not mention that he used any of the following methods to check the legitimacy of the prescriptions: (1) drug utilization review of a patient's prescription history; (2) the distance between the pharmacy and the prescriber; (3) the distance between the pharmacy and the residence of the patient; and (4) how a legitimate medical purpose was determined.

27. On or about February 8, 2013, a Board investigator conducted an audit of certain controlled substances that had been dispensed at Respondent Century Discount Pharmacy from 8-1-2011 to 1-31-2013. The results of the audit were as follows:

Drug Name and Strength	Initial Amount	Amount Ordered	Total Amount	Dispensed Amount	Amount to be Accounted	Stock on Hand	Amount Over	Amount Short
Hydrocodone/ Apap 10/500 mg	333	155,500	155,833	151,930	3903	109		-3794
Hydrocodone/ Apap 10/325 mg	1000	187,00	188,00	183,564	4436	190		-4246
Alprazolam 2 mg	1250	282,100	283,350	279,240	4110	418		-3692
Oxycodone 30 mg	1220 (from perpetual inv.)	161,600	162,820	161,370	1450	10		-1440

28. Based on a review of Respondent Century Pharmacy's computer records and hard copy prescriptions, a Board investigator determined that prescriptions for Oxycontin 30 mg (oxycodone 30 mg extended release or long acting) prescribed by Drs. Ahmed, Chumley, and Rothman, and NP Park were filled with shorting acting oxycodone 30 mg. A total of 879 prescriptions were confirmed to have been erroneously filled. Of these prescriptions, 851

1 prescriptions had a tag with the initial "DS" for Respondent Sharim and 28 prescriptions had a tag
2 with the initials "JK" for Respondent Kim.

3 29. In order to determine if Respondent Century Discount Pharmacy was dispensing an
4 excessive amount of controlled substances, on or around February 25, 2013, letters were sent to
5 certain prescribers along with a list of prescriptions dispensed by Respondent Century Discount
6 Pharmacy between August 1, 2011 and January 31, 2013. The prescribers were asked to review
7 the list of patients and medications to determine if the patients were prescribed the medications for
8 a legitimate medical purpose.

9 30. In March 2013, certain prescribers responded to letters from the Board investigator.
10 NP Park indicated that she did not write any of the prescriptions for the medications that were
11 listed in the letter. Dr. Ahmed indicated that she had not seen the patients listed and did not
12 prescribe any of the medications on the list. Drs. Byrd, Rothman, and Sison also indicated that
13 they did not write any of the prescriptions on the list. Conversely, Drs. Casillas and Onubah
14 indicated that they did write the prescriptions. Drs. Lifson and Chumley did not reply.

15 31. A Board investigator made a determination about the percentage of controlled
16 substance prescriptions versus non-controlled substance prescriptions that were allegedly written
17 by the prescribers to whom the investigator sent his letters. He also made a determination
18 regarding whether or not the prescriptions were paid with cash, i.e., insurance was bypassed. For
19 the time period July 1, 2010 to January 31, 2013 the results were: (1) 99.5% of the prescriptions
20 written by NP Park were controlled substances and 100% of the prescriptions bypassed insurance;
21 (2) 100% of the prescriptions written by Dr. Ahmed were controlled substances and 100% of the
22 prescriptions bypassed insurance; (3) 100% of the prescriptions written by Dr. Byrd were for
23 controlled substances and 100% of the prescriptions bypassed insurance; (4) 76.72% of the
24 prescriptions written by Dr. Sison were for controlled substances and 100% of the prescriptions
25 bypassed insurance; (5) 80% of the prescriptions written by Dr. Casillas were for controlled
26 substances and 100% of the prescriptions bypassed insurance; (6) 98.37% of the prescriptions
27 written by Dr. Lifson were for controlled substances and 100% of the prescriptions bypassed
28 insurance; (7) 97% of the prescriptions written by Dr. Onubah were for controlled substances and

1 99.43% of the prescriptions bypassed insurance; (8) 98.67% of the prescriptions written by Dr.
2 Rothman were for controlled substances and 100% of the prescriptions bypassed insurance; and
3 (9) 100% of the prescriptions written by Dr. Chumley were for controlled substances and 100% of
4 the prescriptions bypassed insurance.

5 32. In a further effort to determine if Respondent Century Discount Pharmacy was
6 dispensing an excessive amount of controlled substances, the dispensing practices of Respondent
7 Century Discount Pharmacy were compared to four other pharmacies located less than one mile
8 away. Included among the four pharmacies were two major retail chains.

9 33. The data showed that between July 1, 2010 and January 31, 2013, Respondent
10 Century Discount Pharmacy filled 344,672 more oxycodone 30 mg tablets versus a Walgreens
11 pharmacy down the street and 358,169 more oxycodone 30 mg tablets versus the CVS pharmacy
12 across the street.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Violation of Corresponding Responsibility)**

15 34. Respondent Century Discount Pharmacy and Respondent Sharim are subject to
16 disciplinary action under Code section 4301, subdivisions (d) and (j), in conjunction with Health
17 and Safety Code section 11153, subdivision (a), in that they violated their corresponding
18 responsibility by excessively furnishing controlled substances. Respondent Sharim misused his
19 education and experience as a pharmacist and failed to implement his best professional judgment
20 by excessively dispensing controlled substances with a high potential for abuse despite multiple
21 clues of irregularity and uncertainty related to patient and prescriber factors. The facts and
22 circumstances are as follows. Complainant incorporates by reference paragraphs 21 through 33 as
23 though fully set forth herein.

24 (a) Drs. Ahmed, Bryd, and Rothman, and NP Park did not write or authorize
25 prescriptions for controlled substances that Respondent Century Discount Pharmacy dispensed
26 under their names. The number of illegitimate prescriptions for controlled substances for these
27 prescribers exceeded 4000.

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1 (b) A high number of the prescriptions were paid for in cash. Specifically, for Drs.
2 Ahmed, Byrd, Sison, Casillas, Lifson, Rothman, and Chumley, and NP Park, 100% of the patients
3 paid for controlled substances in cash.

4 (c) Many patients did not reside in the Reseda area and drove long distances to have
5 their prescriptions filled at Respondent Century Discount Pharmacy. Similarly, many patients
6 drove long distances to obtain the prescriptions from the prescribers.

7 (d) The patient population receiving controlled substances was different from the
8 regular patient population of the pharmacy.

9 (e) Patients who received controlled substances rarely received medications other
10 than controlled substances.

11 (f) Despite a notation on the prescription that a representative of Respondent
12 Century Discount Pharmacy called the prescribers to verify the prescriptions, there was no name of
13 the person verifying the prescription, just a time, date, and "MD" or "NP."

14 (g) Drs. Ahmed, Byrd, and Rothman and NP Park all denied writing the
15 prescriptions.

16 (h) Some prescriptions contained doctors' cell phone numbers, which is highly
17 irregular, and other prescriptions contained multiple stamped telephone numbers overlapping each
18 other.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Operational Standards and Security)**

21 35. Respondent Century Discount Pharmacy is subject to disciplinary action under Code
22 section 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section
23 1714, in that between August 1, 2011 and January 31, 2013, they could not account for 3,794
24 tablets of hydrocodone/acetaminophen 10/500 mg, 4,246 tablets of hydrocodone/acetaminophen
25 10/325 mg, 3,692 tablets of alprazolam 2 mg and 1,440 tablets of oxycodone 30 mg. Complainant
26 incorporates by reference paragraphs 21 through 33 as though fully set forth herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Records of Acquisition and Disposition)**

3 36. Respondent Century Discount Pharmacy is subject to disciplinary action under Code
4 section 4301, subdivision (o), in conjunction with Code sections 4081, subdivision (a) and 4105,
5 subdivision (a) and California Code of Regulations, title 16, section 1718, in that between
6 December 27, 2012 and January 31, 2013, Respondent Century Discount Pharmacy could not
7 account for an inventory overage (physical count which exceeded total accountable inventory) of
8 109 hydrocodone/acetaminophen 10/500 mg and 530 tablets of hydrocodone/acetaminophen
9 10/325 mg. Complainant incorporates by reference paragraphs 21 through 33 as though fully set
10 forth herein.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Record Retention)**

13 37. Respondent Century Discount Pharmacy is subject to disciplinary action under Code
14 section 4301, subdivision (o), in conjunction with Code section 4105, subdivisions (a), (b), and (c),
15 in that a routine inspection conducted on January 30 and 31, 2013 revealed that records of
16 acquisition and prescription hard copies of schedule II controlled substances were not maintained
17 on the pharmacy premises. Respondent Sharim removed the records from Respondent Century
18 Discount Pharmacy and did not retain a duplicate copy or other documentation. Complainant
19 incorporates by reference paragraphs 21 through 33 as though fully set forth herein.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Variation from Prescriptions)**

22 38. Respondent Century Discount Pharmacy and Respondent Sharim are subject to
23 disciplinary action under Code section 4301, subdivision (o), in conjunction with Code section
24 4052.5, subdivision (f) and California Code of Regulations, title 16, section 1716, in that between
25 August 1, 2011 and January 31, 2013, Respondent Century Discount Pharmacy dispensed 879
26 prescriptions for the short-acting form of oxycodone 30 mg when the prescriber wrote a
27 prescription for the long-acting form of oxycodone 30 mg i.e., Oxycontin 30 mg. Complainant
28 incorporates by reference paragraphs 21 through 33 as though fully set forth herein.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Variation from Prescriptions)**

3 39. Respondent Kim is subject to disciplinary action under Code section 4301, subdivision
4 (o), in conjunction with Code section 4052.5, subdivision (f) and California Code of Regulations,
5 title 16, section 1716, in that between August 1, 2011 and January 31, 2013, Respondent Kim
6 dispensed 28 prescriptions for the short acting form of oxycodone 30 mg when the prescriber
7 wrote a prescription for the long-acting form of oxycodone 30 mg i.e., Oxycontin 30 mg. The
8 prescriptions at issue are as follows: 445958, 445957, 446010, 446009, 445944, 445945, 445972,
9 445973, 449068, 449050, 449067, 453085, 453101, 453098, 447673, 447672, 447678, 447679,
10 449039, 448998, 448996, 448997, 452140, 452138, 452145, 452147, 452360, and 452361.
11 Complainant incorporates by reference paragraphs 21 through 33 as though fully set forth herein.

12 **DISCIPLINE CONSIDERATIONS**

13 40. To determine the degree of discipline, if any, to be imposed on Respondent Century
14 Discount Pharmacy, Complainant alleges that on or about June 27, 2014, the Board issued
15 Citation No. CI 2013 58602 to Respondent Century Discount Pharmacy for violating California
16 Code of Regulations, title 16, section 1714 subd. (b) when an audit conducted for the period 8-
17 14-2013 to 9-6-2013 revealed a shortage of 312 tablets of alprazolam 2 mg. which could not be
18 accounted for. That Citation is now final and is incorporated by reference as if fully set forth
19 herein.

20 **PRAYER**

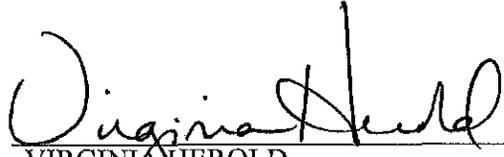
21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Pharmacy issue a decision:

- 23 1. Revoking or suspending Permit Number PHY 39871, issued to Century Discount
24 Pharmacy, Inc., Farhad D. Sharim, Joseph Amin;
- 25 2. Revoking or suspending Pharmacist License Number RPH 46183, issued to Farhad D.
26 Sharim;
- 27 3. Revoking or suspending Pharmacist License Number RPH 45267, issued to Jong Am
28 Kim;

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4. Ordering Farhad Sharim, Farhad D. Sharim and Jong Am Kim to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

5. Taking such other and further action as deemed necessary and proper.

DATED: 3/31/15 

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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